

Atty. Docket No. P1292

I hereby certify that this correspondence is being sent via facsimile transmission to the USPTO central facsimile number,

Attn.: Director of the U.S. Patent and Trademark Office
(703) 872-9306

On April 12, 2004

By Scott W. Hewett
Scott W. Hewett

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APR 12 2004

OFFICIAL

REQUEST FOR REFUND UNDER 37 C.F.R. § 1.26

First named inventor: Wolak

Application No: 09/915,184

Art Unit: 2828

Filed: 07/24/2001

Examiner: J. Menefee

Title: TRACKING ERROR SUPPRESSION AND
METHOD OF REDUCING TRACKING ERROR

Director of the U.S. Patent and Trademark Office
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The undersigned respectfully requests a refund in the amount of \$1300.00 paid by mistake, or alternatively paid in excess of the required fee, for the fee under 37 CFR 1.17(m) charged to USPTO Deposit Account No. 50-0891 associated with the Petition For Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing Under 37 CFR 1.137(f) ("Petition to Revive") mailed May 7, 2003, received by OIPE May 12, 2003, in the above-referenced matter. The Petition to Revive was filed in response to a notice published in the Official Gazette on May 6, 2003 advising patent applicants that filing a rescission under 35 U.S.C. 122(b)(2)(B)(ii) of a nonpublication request is not itself a notice of foreign filing under 35 U.S.C. 122(b)(2)(B)(iii). The Petition to Revive was granted and mailed May 20, 2003 and the associated fee was charged to USPTO Deposit Account No. 50-0891.

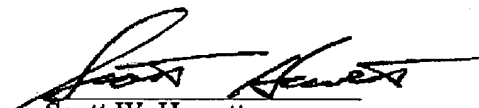
On July 1, 2003, the USPTO published a notice in the Official Gazette superceding the notice of May 6, 200. The notice published on July 1, 2003 states that if an applicant makes a nonpublication request and then rescinds the nonpublication request before or on the date a counterpart application is filed in an eighteen-month publication country, the application will be treated as if the nonpublication request were never made.

The above-referenced application was filed in the U.S. Patent and Trademark Office with a Nonpublication Request. The Request to Rescind Previous Nonpublication Request was filed October 25, 2001. On July 22, 2002 an application directed to the invention disclosed in the above-identified application was filed abroad as a patent application that requires publication eighteen months after filing. The undersigned respectfully requests a refund of the revival fee in light of the superceding notice published in the Official Gazette on July 1, 2003, and in further light of the fact that another Petition to Revive that was also mailed on May 7, 2003 in a related case under essentially identical circumstances was dismissed as moot, and the fee of \$1300.00 was refunded.

The undersigned invites the Director to telephone him at the number below if the Director has any questions, or if he requires further information or substantive documentation. The undersigned further respectfully requests notification if this Request for Refund is not granted.

Date April 12, 2004

Respectfully submitted,


Scott W. Hewett
Reg. No. 41,836

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